

REMARKS

I. Introduction

Claims 1, 4, 5, 7, 8, 10, 13, 14, 17, 18, 20, 21 and 23-28 are currently pending. In view of the following remarks, it is respectfully submitted that the pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 1, 4, 5, 10, 14, 17 and 18 under 35 U.S.C. § 103(a)

Claims 1, 4, 5, 10, 14, 17 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Overview of CARAT-4, a Multi-body Simulation and Collision Modeling Program* ("Fittanto") in view of U.S. Patent No. 5,581,464 ("Woll") and U.S. Patent No. 6,564,149 ("Lai"). Applicant respectfully submits that claims 1, 4, 5, 10, 14, 17 and 18 are not rendered obvious by the applied references, for at least the reasons set forth below.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements" in the manner claimed. See KSR Int'l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id., at 1396. To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 1 recites, in relevant parts, a “method for analyzing driving data of at least two vehicles involved in a collision, comprising: calculating a three-dimensional, kinematic model of the at least two vehicles, the model including at least one linear-motion-dynamics signal and at least one lateral-motion-dynamics signal and a radar signal of an adaptive cruise control system of each of the at least two vehicles, wherein the at least one lateral-motion-dynamics signal includes a rotational-rate signal of a yaw sensor, and wherein a time basis for the at least one linear-motion-dynamics signal and the at least one lateral-motion-dynamics signal is provided by a real-time clock of at least one of the two vehicles and recorded, and wherein the radar signal of the adaptive cruise control system and the time basis provided by the real-time clock are utilized to form a frame of reference from which the relative positions of the at least two vehicles are determined; and visually representing the three-dimensional, kinematic model of the at least two vehicles involved in the collision.” Independent claims 10 and 14 recite substantially similar features as the above-recited features of claim 1.

The Examiner maintains that Fittanto and Woll each disclose usage of a real-time clock. As an initial matter, it is generally understood that a real-time clock is a time-keeping device that keeps track of the current time. Recording an amount of elapsed time is insufficient to meet this definition. For the reasons discussed below, Fittanto and Woll do not disclose or suggest a real-time clock.

In regard to the disclosure of Fittanto, the Examiner cites a feature in which the user engages in a forward mode simulation of vehicle collisions. Applicant respectfully disagrees that this feature suggests usage of a real-time clock. The simulation of elapsed time is not dependent on the recording of actual current time, which is how a real-time clock would operate. Instead, the calculations for the simulation can be performed without reference to recorded time. Similarly, although the playback of the simulation to the user may appear to occur in real-time, the playback is not dependent on recording of actual current time.

In regard to the disclosure of Woll, the Examiner’s contention that col. 4, lines 33-38 and col. 7, lines 28-39 disclose a real-time clock used as a basis for recording of data is

simply unsupported. Notably, col. 4, lines 33-38 is the **only** portion of Woll which uses the term “**real-time clock**,” and nowhere else does Woll even mention, much less discuss, a real-time clock. Furthermore, as to col. 7, lines 28-39 of Woll, this cited portion merely describes the recording of data at specified rates. It is well known that electronic components can be configured to automatically operate at different rates, without being controlled by a real-time clock.

It is respectfully submitted that Lai does not cure (and has not been cited to cure) the deficiencies of Fittanto and Woll described above. Accordingly, claims 1, 10 and 14, as well as dependent claims 4, 5, 17 and 18, are not rendered obvious by the overall teachings of Fittanto, Woll and Lai.

In addition to the above, the Examiner contends that col. 5, lines 35-45 of Lai discloses that **a radar signal of an adaptive cruise control system and the time basis provided by a real-time clock are utilized to form a frame of reference from which the relative positions of the at least two vehicles are determined.** First, Lai describes a satellite-based GPS system, not **radar signals of cruise control systems.** Second, the GPS signals of Lai are not **combined with a time basis provided by a real time clock** to form a frame of reference. The cited portion of Lai clearly describes the **correlation of aircraft velocity and position vectors to each other** for the purpose of generating a common time reference. Thus, what Lai refers to as a “time reference correlation” involves nothing more than comparing position and velocity vectors. Neither a real-time clock nor a radar signal is used to **generate a frame of reference.**

For at least the foregoing reasons, Applicant submits that claims 1, 4, 5, 10, 14, 17 and 18 are allowable over the combination of Fittanto, Woll and Lai.

III. Rejection of Claims 4 and 17 under 35 U.S.C. § 103(a)

Claims 4 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fittanto in view of Woll, Lai and U.S. Patent No. 6,246,933 ("Baque"). Applicant respectfully submits that claims 4 and 17 are not rendered obvious by the applied references, for at least the reasons set forth below.

Claims 4 and 17 depend on claims 1 and 14, respectively. As discussed above, the combination of Fittanto, Woll and Lai fails to render obvious claims 1 and 14. In addition, Baque clearly fails to remedy the deficiencies of Fittanto, Woll and Lai as applied against parent claims 1 and 14. Accordingly, the overall teachings of Fittanto, Woll, Lai and Baque cannot render dependent claims 4 and 17 obvious. In view of the foregoing reasons, it is respectfully requested that the obviousness rejection of claims 4 and 17 be withdrawn.

IV. Rejection of Claims 7 and 20 under 35 U.S.C. § 103(a)

Claims 7 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fittanto in view of Woll, Lai and U.S. Patent No. 6,675,074 ("Hathout"). Applicant respectfully submits that claims 7 and 20 are not rendered obvious by the applied references, for at least the reasons set forth below.

Claims 7 and 20 depend on claims 1 and 14, respectively. As discussed above, the combination of Fittanto, Woll and Lai fails to render obvious claims 1 and 14. In addition, Hathout clearly fails to remedy the deficiencies of Fittanto, Woll and Lai as applied against parent claims 1 and 14. Accordingly, the overall teachings of Fittanto, Woll, Lai and Hathout cannot render dependent claims 7 and 20 obvious. In view of the foregoing reasons, it is respectfully requested that the obviousness rejection of claims 7 and 20 be withdrawn.

V. Rejection of Claims 8, 13 and 21 under 35 U.S.C. § 103(a)

Claims 8, 13 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fittanto in view of Woll, Lai and U.S. Patent No. 6,718,239 ("Rayner"). Applicant respectfully submits that claims 8, 13 and 21 are not rendered obvious by the applied references, for at least the reasons set forth below.

Claims 8, 13 and 21 depend on claims 1, 10 and 14, respectively. As discussed above, the combination of Fittanto, Woll and Lai fails to render obvious claims 1, 10 and 14. In addition, Rayner clearly fails to remedy the deficiencies of Fittanto, Woll and Lai as applied against parent claims 1, 10 and 14. Accordingly, the overall teachings of Fittanto, Woll, Lai and Rayner cannot render dependent claims 8, 13 and 21 obvious. In view of the foregoing reasons, it is respectfully requested that the obviousness rejection of claims 8, 13 and 21 be withdrawn.

VI. Rejection of Claims 23, 25 and 27 under 35 U.S.C. § 103(a)

Claims 23, 25 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fittanto in view of Woll, Lai and U.S. Patent No. 5,625,556 ("Janky"). Applicant respectfully submits that claims 23, 25 and 27 are not rendered obvious by the applied references, for at least the reasons set forth below.

Claims 23, 25 and 27 depend on claims 1, 10 and 14, respectively. As discussed above, the combination of Fittanto, Woll and Lai fails to render obvious claims 1, 10 and 14. In addition, Janky clearly fails to remedy the deficiencies of Fittanto, Woll and Lai as applied against parent claims 1, 10 and 14. Accordingly, the overall teachings of Fittanto, Woll, Lai and Janky cannot render dependent claims 23, 25 and 27 obvious. In view of the foregoing reasons, it is respectfully requested that the obviousness rejection of claims 23, 25 and 27 be withdrawn.

VII. Rejection of Claims 24, 26 and 28 under 35 U.S.C. § 103(a)

Claims 24, 26 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fittanto in view of Woll, Lai and U.S. Application No. 2002/0103622 ("Burge"). Applicant respectfully submits that claims 24, 26 and 28 are not rendered obvious by the applied references, for at least the reasons set forth below.

Claims 24, 26 and 28 depend on claims 1, 10 and 14, respectively. As discussed above, the combination of Fittanto, Woll and Lai fails to render obvious claims 1, 10 and 14. In addition, Burge clearly fails to remedy the deficiencies of Fittanto, Woll and Lai as applied against parent claims 1, 10 and 14. Accordingly, the overall teachings of Fittanto, Woll, Lai

and Burge cannot render dependent claims 24, 26 and 28 obvious. In view of the foregoing reasons, it is respectfully requested that the obviousness rejection of claims 24, 26 and 28 be withdrawn.

CONCLUSION

In view of all of the above, it is respectfully submitted that all of the presently pending claims are allowable. A prompt, favorable action on the merits is respectfully requested.

Respectfully submitted,

 (D. No. 36,197)

Dated: July 13, 2009

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